

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**IN RE: ETHICON, INC.,
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION**

MDL NO. 2327

**THIS DOCUMENT RELATES TO:
ETHICON WAVE CASES LISTED
IN EXHIBIT A**

**JOSEPH R. GOODWIN
U.S. DISTRICT JUDGE**

**PLAINTIFFS' MOTION TO EXCLUDE CERTAIN GENERAL OPINIONS OF
E. STANTON SHOEMAKER, M.D.**

Pursuant to Federal Rule of Evidence 702 and 703 and *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), Plaintiffs move to exclude certain general opinions of one of Defendant's experts, E. Stanton Shoemaker, M.D., that are improper and/or beyond his expertise as a pelvic surgeon. Specifically, Plaintiffs request that the Court preclude Dr. Shoemaker from stating opinions regarding (1) the state of mind or knowledge of other doctors, (2) the adequacy of Ethicon's Instructions for Use, (3) the physical properties of polypropylene, and (4) legal conclusions.

As grounds for this motion, Plaintiffs submit that Dr. Shoemaker cannot provide reliable, trustworthy and/or admissible testimony about these topics under the standard set forth in *Daubert*. *See id.* In support of this motion, Plaintiffs incorporate by reference their accompanying memorandum of law and rely on the following exhibits:

1. List of cases in which Dr. Shoemaker has been designated by Defendants as a general expert, Exhibit A;
2. Dr. Shoemaker's curriculum vitae, Exhibit B;

3. Dr. Shoemaker's Prolift, Prolift +M, and Prosima General Expert Report, Exhibit C;
4. Dr. Shoemaker's TVT and TVT-O General Expert Report, Exhibit D;
5. Transcript of Dr. Shoemaker's April 5, 2016 Deposition, Exhibit E;
6. Ethicon Internal Email dated May 10, 2004, ETH.MESH.00584846, Exhibit F.

WHEREFORE, FOR THESE REASONS and as more fully set forth in Plaintiff's supporting memorandum of law, Plaintiff respectfully requests that this Court enter an order GRANTING Plaintiffs' Motion to Exclude the Testimony of Dr. Stanton Shoemaker, M.D.

Dated: April 26, 2016

Respectfully submitted,

THE MONSOUR LAW FIRM

/s/Douglas C. Monsour

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2016, a true and correct copy of Plaintiffs' Motion to Exclude the Testimony of Stanton Shoemaker, M.D. was served via electronic mail with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF counsel of record.

Dated: April 26, 2016

Respectfully submitted,

/s/Douglas C. Monsour

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